

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Ivan LAWROW Confirmation No.: 2852
Application No.: 10/647,620 Art Unit: 2193
Filed: August 25, 2003 Examiner: C. D. Ngo
Title: DATA PROCESSING SYSTEM AND METHOD

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**APPLICATION FOR PATENT TERM ADJUSTMENT AND REQUEST FOR
RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §§
1.702-1.705**

Dear Madam:

The Notice of Allowance mailed on August 31, 2009 for the application referenced above recites a 493 day patent term adjustment. Applicants believe that the application is entitled to more than 493 days of term adjustment, and hereby request reconsideration of the patent term adjustment as follows.

Applicants believe the total patent term adjustment under 37 C.F.R. §§ 1.702-1.704 should be 996 days as of the issue fee due date, November 30, 2009, which is the total of:

(1) 728 days under 37 C.F.R. §§ 1.702(a)(1) and 1.703(a)(1), for the delay in issuing a first office action after October 25, 2004 (14 months from the filing date) until October 16, 2006 (date the first office action was mailed);

(2) 503 days under 37 C.F.R. §§ 1.702(b) and 1.703(b) for the Patent Office delay in issuing the patent after August 25, 2006 (three years from the filing date) until January 10, 2008 (the date Applicants filed a Request for Continued Examination under 35 U.S.C. § 132(b));

(3) less 235 days under 37 C.F.R. § 1.704.

The periods (1) and (2) do not overlap under 37 C.F.R. § 1.703(f) and the total PTO delay is 1231 days. *See Wyeth v. Dudas*, 88 U.S.P.Q.2d 1538 (D.D.C. 2008). Thus, the total adjustment based on (1)-(3) (1231 days, less 235 days (based on (3) above)) yields a total PTA of 996 days.

37 C.F.R. 1.702(b) states:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a)

The instant application was filed under 35 U.S.C. § 111(a) on August 25, 2003 and therefore should have issued by August 25, 2006.

37 C.F.R. § 1.703 states in pertinent part:

The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) ... and ending on the date a patent was issued

Therefore, the relevant period of delay in issuing the patent began on August 25, 2006 and our calculations show that the application should receive an additional 503 day term adjustment, for a total of 996 days.

In accordance with 37 C.F.R. 1.18(e), please charge the \$200.00 fee to our Deposit Account No. 08-0219. The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 08-0219, under Order No. 0286674.00122US1.

Respectfully submitted,

Dated: *October 26, 2009*



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